

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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SAHAR AL GHRAIRI,

Plaintiff,

NOTICE OF REMOVAL

Civil No. \_\_\_\_\_

vs.

FEDERAL-MOGUL MOTORPARTS LLC  
FEDERAL-MOGUL PRODUCTS, INC.,  
ICAHN AUTOMOTIVE GROUP LLC  
d/b/a THE PEP BOYS-MANNY, MOE AND  
JACK INC.,  
THE PEP BOYS-MANNY, MOE AND JACK INC.,

Defendants.

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**TO: United States District Court  
Western District of New York**

**NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. §§ 1441 and 1446, and Local Rule 81, defendant, PEP BOYS – MANNY, MOE & JACK OF DELAWARE LLC, incorrectly sued herein as ICAHN AUTOMOTIVE GROUP LLC d/b/a THE PEP BOYS-MANNY, MOE AND JACK INC., and THE PEP BOYS-MANNY, MOE AND JACK INC. (hereinafter “Pep Boys”) by its attorneys, Goldberg Segalla LLP, submits this Notice of Removal from the Supreme Court, State of New York, County of Erie in which the above-captioned matter is now pending, to the United States District Court for the Western District of New York. In support of said Notice, defendant states as follows:

### **Procedural History**

1. Plaintiff filed her Complaint in the Supreme Court, State of New York, County of Erie on or about July 15, 2022. Defendant first received a copy of the Complaint on or about August 3, 2022. An Index of all documents filed in State Court is attached hereto as Exhibit A pursuant to Local Rule 81(a)(3)(A). A copy of the Complaint filed in State Court is attached hereto as Exhibit B pursuant to local Rule 81(a)(3)(B). No other pleadings have been filed in State Court or otherwise received by defendant.

### **Parties**

2. Plaintiff, Sahar Al Ghairi, asserts in her Complaint that she is a resident of the County of Erie, State of New York, and thus is a citizen of New York for diversity purposes.

3. Defendant PEP BOYS is an LLC organized under the laws of the state of Delaware, with its principal place of business in Bala Cynwyd, Pennsylvania, and thus is a not a citizen of New York for diversity purposes.

4. Defendant PEP BOYS has an obligation to secure consent for this removal from defendants FEDERAL-MOGUL MOTORPARTS LLC and FEDERAL-MOGUL PRODUCTS, INC. (collectively, “FEDERAL-MOGUL”).

5. On August 24, 2022, counsel for Defendant PEP BOYS contacted counsel for FEDERAL-MOGUL.

6. FEDERAL-MOGUL PRODUCTS, INC. is a corporation organized under the law of the State of Missouri, with its principal place of business in Michigan, and thus not a citizen of New York for diversity purposes, and consents to this Removal.

7. FEDERAL-MOGUL MOTORPARTS, LLC is a limited liability company organized under the law of the State of Delaware, with its principal place of business in Michigan. FEDERAL-MOGUL MOTORPARTS, LLC's sole member is Tenneco, Inc., a corporation organized under the laws of the state of Delaware with its principal place of business in Illinois. FEDERAL-MOGUL MOTORPARTS, LLC is thus not a citizen of New York for diversity purposes, and consents to this Removal.

8. Counsel for FEDERAL-MOGUL further states that prior to contact from counsel for defendant PEP BOYS, FEDERAL-MOGUL was not aware of this lawsuit filing.

9. Complete diversity exists between the parties.

#### **Jurisdiction**

10. This Court has subject-matter jurisdiction of the action pursuant to 28 U.S.C. § 1332 in that it is a civil action between citizens of different states, and the matter in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs.

11. Although the Complaint as filed by plaintiff does not demand a specific amount of damages in its prayer for relief, defendant PEP BOYS has a good faith belief that the amount sought exceeds the \$75,000.00 threshold. Plaintiff's counsel has provided extensive medical records indicating that plaintiff is treating for knee, back and neck injuries.

#### **Basis For Removal**

12. This Court has subject-matter jurisdiction on the basis of diversity of citizenship under 28 U.S.C. § 1332. Venue is proper pursuant to 28 U.S.C. § 1441(a) as this is the federal district court for the district embracing the place where the state court suit is pending.

13. This Notice of Removal is filed with this Court within thirty (30) days of defendant PEP BOYS' receipt of Plaintiff's Complaint.

14. As required by 28 U.S.C. § 1446(d), a copy of this Notice of Removal is being served upon plaintiff, by and through her attorney of record, and is being filed with the Clerk of the Court of the State of New York Supreme Court, County of Erie, Erie County Clerk's Office.

15. Copies of all process, pleadings and orders served upon defendants in the State of New York Supreme Court, County of Erie, Index No. 808013/2022, are attached hereto as Exhibit B.

**WHEREFORE**, defendant files this notice of removal so that the entire state court action under Index No. 808013/2022 now pending in the State of New York, Supreme Court, County of Erie, be removed to this court for all further proceedings.

Dated: Buffalo, New York  
August 29, 2022

Respectfully submitted,

GOLDBERG SEGALLA LLP

By: /s/Kathleen J. Martin  
Kathleen J. Martin, Esq.  
*Attorneys for Defendant, PEP BOYS*  
*- MANNY, MOE & JACK OF DELAWARE LLC*  
665 Main Street  
Buffalo, New York 14203  
716-566-5400  
[kmartin@goldbergsegalla.com](mailto:kmartin@goldbergsegalla.com)

To: Amanda N. Blum, Esq.  
ANDREWS, BERNSTEIN, MARANTO & NICOTRA, PLLC  
*Attorneys for Plaintiff*  
420 Franklin Street  
Buffalo, New York 14202  
(716) 842-2200

Cc: Matthew Kennison, Esq.  
RILEY SAFER HOLMES & CANCILA, LLP  
*Counsel for Federal-Mogul Motorparts LLC and  
Federal-Mogul Products, Inc.*  
121 W. Washington St, Ste 402  
Ann Arbor, MI 48104  
mkennison@rshc-law.com  
(734) 773-4911

Erie County Clerk

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of defendant's Notice of Removal in the above-captioned matter was served upon the following-named person on the 29th day of August, 2022, via regular mail, postage prepaid:

Amanda N. Blum, Esq.  
ANDREWS, BERNSTEIN, MARANTO & NICOTRA, PLLC  
*Attorneys for Plaintiff*  
420 Franklin Street  
Buffalo, New York 14202

Matthew Kennison, Esq.  
RILEY SAFER HOLMES & CANCELA, LLP  
*Counsel for Federal-Mogul Motorparts LLC and  
Federal-Mogul Products, Inc.*  
121 W. Washington St, Ste 402  
Ann Arbor, MI 48104

Respectfully submitted,

GOLDBERG SEGALLA LLP

By: /s/Kathleen J. Martin  
Kathleen J. Martin, Esq.  
*Attorneys for Defendant, PEP BOYS  
- MANNY, MOE & JACK OF DELAWARE LLC*  
665 Main Street  
Buffalo, New York 14203  
716-566-5400  
[kmartin@goldbergsegalla.com](mailto:kmartin@goldbergsegalla.com)

# EXHIBIT A

## **Index pursuant to Local Rule 81(a)(3)(A)**

1. Summons and Complaint, July 15, 2022

# EXHIBIT B



**SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF ERIE**

-----X  
SAHAR AL GHRAIRI

Plaintiff/Petitioner,

- against -

Index No. 808013/2022

FEDERAL- MOGUL MOTORPARTS LLC, FEDERAL-MOGUL PRODUCTS, INC.,  
ICAHN AUTOMOTIVE GROUP LLC d/b/a THE PEP BOYS-MANNY, MOE AND JACK INC.  
THE PEP BOYS-MANNY, MOE AND JACK INC.  
Defendant/Respondent.

-----X  
**NOTICE OF ELECTRONIC FILING  
(Mandatory Case)  
(Uniform Rule § 202.5-bb)**

**You have received this Notice because:**

- 1) The Plaintiff/Petitioner, whose name is listed above, has filed this case using the New York State Courts E-filing system ("NYSCEF"), and
- 2) You are a Defendant/Respondent (a party) in this case.

• **If you are represented by an attorney:**

Give this Notice to your attorney. (Attorneys: see "Information for Attorneys" pg. 2).

• **If you are not represented by an attorney:**

**You will be served with all documents in paper and you must serve and file your documents in paper, unless you choose to participate in e-filing.**

**If you choose to participate in e-filing, you must have access to a computer and a scanner or other device to convert documents into electronic format, a connection to the internet, and an e-mail address to receive service of documents.**

**The benefits of participating in e-filing include:**

- serving and filing your documents electronically
- free access to view and print your e-filed documents
- limiting your number of trips to the courthouse
- paying any court fees on-line (credit card needed)

**To register for e-filing or for more information about how e-filing works:**

- visit: [www.nycourts.gov/efile-unrepresented](http://www.nycourts.gov/efile-unrepresented) or
- contact the Clerk's Office or Help Center at the court where the case was filed. Court contact information can be found at [www.nycourts.gov](http://www.nycourts.gov)

To find legal information to help you represent yourself visit [www.nycourthelp.gov](http://www.nycourthelp.gov)

**Information for Attorneys  
(E-filing is Mandatory for Attorneys)**

An attorney representing a party who is served with this notice must either:

1) immediately record his or her representation within the e-filed matter on the NYSCEF site [www.nycourts.gov/efile](http://www.nycourts.gov/efile) ; or

2) file the Notice of Opt-Out form with the clerk of the court where this action is pending and serve on all parties. Exemptions from mandatory e-filing are limited to attorneys who certify in good faith that they lack the computer hardware and/or scanner and/or internet connection or that they lack (along with all employees subject to their direction) the knowledge to operate such equipment. [Section 202.5-bb(e)]

For additional information about electronic filing and to create a NYSCEF account, visit the NYSCEF website at [www.nycourts.gov/efile](http://www.nycourts.gov/efile) or contact the NYSCEF Resource Center (phone: 646-386-3033; e-mail: [efile@nycourts.gov](mailto:efile@nycourts.gov)).

Dated: 8/1/2022

Amanda N. Blum  
Name

Andrews, Bernstein, Maranto & Nicotra, PLLC  
Firm Name

Address

420 Franklin Street  
Buffalo, NY 14202

716-842-2200  
Phone

ABlum@WNYInjuryLawyers.com  
E-Mail

To: THE PEP BOYS-MANNY, MOE AND JACK INC.

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\_\_\_\_\_  
\_\_\_\_\_

6/6/18

STATE OF NEW YORK  
SUPREME COURT: COUNTY OF ERIE

SAHAR AL GHRAIRI  
148 Roswell Avenue  
Buffalo, New York 14207

Plaintiff,

**SUMMONS**

v.

Index No. \_\_\_\_\_

FEDERAL-MOGUL MOTORPARTS LLC  
27300 West Eleven Mile Road  
Southfield, Michigan 48034

FEDERAL-MOGUL PRODUCTS, INC.  
27300 West Eleven Mile Road  
Southfield, Michigan 48034

ICAHN AUTOMOTIVE GROUP LLC  
d/b/a THE PEP BOYS-MANNY, MOE AND JACK INC.  
27300 West Eleven Mile Road  
Southfield, Michigan 48034

THE PEP BOYS-MANNY, MOE AND JACK INC.  
27300 West Eleven Mile Road  
Southfield, Michigan 48034

Defendants.

TO THE ABOVE DEFENDANTS:

YOU ARE HEREBY SUMMONED, to answer the Complaint in this action and serve a copy of your Answer, or if the Complaint is not served with this Summons to serve a Notice of Appearance on the Plaintiffs' attorneys within twenty (20) days after the service of this Summons, exclusive of the day of service, where service is made by delivery upon you personally within the State, or within thirty (30) days after the completion of service where service is made in any other manner. In case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the Complaint.

The trial of this action is to be held in the County of Erie.

Dated: July 15, 2022  
Buffalo, New York

**ANDREWS, BERNSTEIN, MARANTO & NICOTRA, PLLC**

By: /s/ Amanda N. Blum  
Amanda N. Blum, Esq.  
*Attorneys for Plaintiff*  
Office and Post Office Address  
420 Franklin Street  
Buffalo, New York 14202  
Telephone: (716) 842-2200

STATE OF NEW YORK  
SUPREME COURT: COUNTY OF ERIE

SAHAR AL GHRAIRI  
148 Roswell Avenue  
Buffalo, New York 14207

Plaintiff,

**COMPLAINT**

v.

Index No. \_\_\_\_\_

FEDERAL-MOGUL MOTORPARTS LLC  
27300 West Eleven Mile Road  
Southfield, Michigan 48034

FEDERAL-MOGUL PRODUCTS, INC.  
27300 West Eleven Mile Road  
Southfield, Michigan 48034

ICAHN AUTOMOTIVE GROUP LLC  
d/b/a THE PEP BOYS-MANNY, MOE AND JACK INC.  
27300 West Eleven Mile Road  
Southfield, Michigan 48034

THE PEP BOYS-MANNY, MOE AND JACK INC.  
27300 West Eleven Mile Road  
Southfield, Michigan 48034

Defendants.

Plaintiff, SAHAR AL GHRAIRI, by her attorneys, Andrews, Bernstein, Maranto & Nicotra, PLLC for her complaint against the Defendants, alleges as follows:

1. That upon information and belief, at all times hereinafter mentioned, Plaintiff, SAHAR AL GHRAIRI was and is a resident of the City of Buffalo, County of Erie and State of New York.
2. That upon information and belief and at all times hereinafter mentioned, Defendant,

FEDERAL-MOGUL MOTORPARTS LLC was and is a foreign limited liability company duly authorized to transact business within the State of New York, and does transact business within the State of New York, with its principal office located at 27300 West Eleven Mile Road, Southfield, Michigan.

3. That upon information and belief and at all times hereinafter mentioned, Defendant, FEDERAL-MOGUL PRODUCTS, INC. was and is a foreign business corporation duly authorized to transact business within the State of New York, and does transact business within the State of New York, with its principal office located at 27300 West Eleven Mile Road, Southfield, Michigan.

4. That upon information and belief and at all times hereinafter mentioned, Defendant, ICAHN AUTOMOTIVE GROUP LLC was and is a foreign limited liability company duly authorized to transact business within the State of New York, and does transact business within the State of New York, with its principal office located at 27300 West Eleven Mile Road, Southfield, Michigan.

5. That upon information and belief and at all times hereinafter mentioned, Defendant, ICAHN AUTOMOTIVE GROUP LLC was transacting business within the State of New York under the name "THE PEP BOYS-MANNY, MOE AND JACK INC.

6. That upon information and belief and at all times hereinafter mentioned, Defendant, THE PEP BOYS-MANNY, MOE AND JACK INC. was and is a foreign business corporation duly authorized to transact business within the State of New York, and does transact business within the State of New York, with an office located at 27300 West Eleven Mile Road, Southfield, Michigan.

**AS AND FOR A FIRST CAUSE OF ACTION AGAINST ALL DEFENDANTS ON  
BEHALF OF PLAINTIFF SAHAR AL GHRAIRI**

7. Plaintiff repeats and re-alleges each and every allegation contained in paragraphs "1" through "6" above as if set forth fully herein.

8. That the MOOG Control Arm (hereinafter "the control arm") is a product purchased and utilized within the County of Erie and State of New York.

9. That upon information and belief and at all times hereinafter mentioned, Defendants, FEDERAL-MOGUL MOTORPARTS LLC and/or FEDERAL-MOGUL PRODUCTS, INC. and/or ICAHN AUTOMOTIVE GROUP LLC and/or THE PEP BOYS-MANNY, MOE AND JACK INC., designed the control arm involved in the accident hereinafter described.

10. That upon information and belief and at all times hereinafter mentioned, Defendants, FEDERAL-MOGUL MOTORPARTS LLC and/or FEDERAL-MOGUL PRODUCTS, INC. and/or ICAHN AUTOMOTIVE GROUP LLC and/or THE PEP BOYS-MANNY, MOE AND JACK INC., manufactured the control arm involved in the accident hereinafter described.

11. That upon information and belief and at all times hereinafter mentioned, Defendants, FEDERAL-MOGUL MOTORPARTS LLC and/or FEDERAL-MOGUL PRODUCTS, INC. and/or ICAHN AUTOMOTIVE GROUP LLC and/or THE PEP BOYS-MANNY, MOE AND JACK INC., marketed the control arm involved in the accident hereinafter described.

12. That upon information and belief and at all times hereinafter mentioned, Defendants, FEDERAL-MOGUL MOTORPARTS LLC and/or FEDERAL-MOGUL PRODUCTS, INC. and/or ICAHN AUTOMOTIVE GROUP LLC and/or THE PEP BOYS-MANNY, MOE AND JACK INC., distributed the control arm involved in the accident hereinafter

described.

13. That upon information and belief and at all times hereinafter mentioned, on or about July 16, 2019, Plaintiff, SAHAR AL GHRAIRI, was utilizing the control arm in the County of Erie and State of New York.

14. That Plaintiff, SAHAR AL GHRAIRI, while in the process of utilizing the aforementioned control arm, was caused to suffer permanent and serious injuries.

15. That said incident occurred through no fault, neglect or carelessness on the part of the Plaintiff contributing thereto.

16. That said incident was caused by the negligence, carelessness, and recklessness of Defendants, FEDERAL-MOGUL MOTORPARTS LLC and/or FEDERAL-MOGUL PRODUCTS, INC. and/or ICAHN AUTOMOTIVE GROUP LLC and/or THE PEP BOYS-MANNY, MOE AND JACK INC., in that it negligently, carelessly, and recklessly designed, manufactured, tested, marketed and sold the aforementioned control arm.

17. That as a result of the negligence, carelessness, and recklessness of Defendants, FEDERAL-MOGUL MOTORPARTS LLC and/or FEDERAL-MOGUL PRODUCTS, INC. and/or ICAHN AUTOMOTIVE GROUP LLC and/or THE PEP BOYS-MANNY, MOE AND JACK INC., Plaintiff SAHAR AL GHRAIRI, was permanently and seriously injured, all to her damage in an amount that exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

**AS AND FOR A SECOND, SEPARATE AND DISTINCT CAUSE OF ACTION  
AGAINST ALL DEFENDANTS ON BEHALF OF PLAINTIFF SAHAR AL GHRAIRI**

18. Plaintiff repeats and re-alleges each and every allegation contained in paragraphs "1" through "17" above as if set forth fully herein.

19. That the aforementioned control arm that caused Plaintiff's injuries was defectively



designed, manufactured, tested, marketed and sold by Defendants, FEDERAL-MOGUL MOTORPARTS LLC and/or FEDERAL-MOGUL PRODUCTS, INC. and/or ICAHN AUTOMOTIVE GROUP LLC and/or THE PEP BOYS-MANNY, MOE AND JACK INC..

20. That at the time of Plaintiff's accident, the aforementioned control arm was being used in a manner foreseeable by Defendants, FEDERAL-MOGUL MOTORPARTS LLC and/or FEDERAL-MOGUL PRODUCTS, INC. and/or ICAHN AUTOMOTIVE GROUP LLC and/or THE PEP BOYS-MANNY, MOE AND JACK INC..

21. That because of the above-referenced defects, the aforementioned control arm that caused Plaintiff's injuries was not fit for the purpose for which it was intended.

22. That the Defendants, FEDERAL-MOGUL MOTORPARTS LLC and/or FEDERAL-MOGUL PRODUCTS, INC. and/or ICAHN AUTOMOTIVE GROUP LLC and/or THE PEP BOYS-MANNY, MOE AND JACK INC., is strictly liable in tort to Plaintiff.

23. That as a result of the negligence, carelessness, and recklessness of Defendants, FEDERAL-MOGUL MOTORPARTS LLC and/or FEDERAL-MOGUL PRODUCTS, INC. and/or ICAHN AUTOMOTIVE GROUP LLC and/or THE PEP BOYS-MANNY, MOE AND JACK INC., Plaintiff, SAHAR AL GHRAIRI, was permanently and seriously injured, all to her damage in an amount that exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

**AS AND FOR A THIRD, SEPARATE AND DISTINCT CAUSE OF ACTION AGAINST  
ALL DEFENDANTS ON BEHALF OF PLAINTIFF SAHAR AL GHRAIRI**

24. Plaintiffs repeats and re-alleges each and every allegation contained in paragraphs "1" through "23" above as if set forth fully herein.

25. That Defendants, FEDERAL-MOGUL MOTORPARTS LLC and/or FEDERAL-MOGUL PRODUCTS, INC. and/or ICAHN AUTOMOTIVE GROUP LLC and/or THE PEP

BOYS-MANNY, MOE AND JACK INC., made certain warranties, both express and implied, with respect to the aforementioned control arm that caused Plaintiff's injuries.

26. That the warranties, both express and implied, breached by Defendants, FEDERAL-MOGUL MOTORPARTS LLC and/or FEDERAL-MOGUL PRODUCTS, INC. and/or ICAHN AUTOMOTIVE GROUP LLC and/or THE PEP BOYS-MANNY, MOE AND JACK INC., caused Plaintiff, SAHAR AL GHRAIRI, to sustain permanent and serious injuries, in an amount that exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

**AS AND FOR A FOURTH, SEPARATE AND DISTINCT CAUSE OF ACTION  
AGAINST ALL DEFENDANTS ON BEHALF OF PLAINTIFF SAHAR AL GHRAIRI**

27. Plaintiff repeats and re-alleges each and every allegation contained in paragraphs "1" through "26" above as if set forth fully herein.

28. That the aforementioned control arm that caused Plaintiff's injuries was inherently dangerous in that its use and operation placed Plaintiff in imminent danger.

29. That Defendants, FEDERAL-MOGUL MOTORPARTS LLC and/or FEDERAL-MOGUL PRODUCTS, INC. and/or ICAHN AUTOMOTIVE GROUP LLC and/or THE PEP BOYS-MANNY, MOE AND JACK INC., knew or should have known that the aforementioned control arm was defective and unsafe and it was the duty of Defendant to warn Plaintiff of said dangers, and Defendant failed to do so.

30. That the failure of Defendants, FEDERAL-MOGUL MOTORPARTS LLC and/or FEDERAL-MOGUL PRODUCTS, INC. and/or ICAHN AUTOMOTIVE GROUP LLC and/or THE PEP BOYS-MANNY, MOE AND JACK INC., to warn Plaintiff of the defects and dangers caused Plaintiff, SAHAR AL GHRAIRI, to sustain permanent and serious injuries, in an amount

that exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction

**WHEREFORE**, Plaintiff, SAHAR AL GHRAIRI, demands relief in judgment on her behalf and to receive damages on the allegations previously stated herein in an amount as may be just and proper based on the circumstances, together with the costs and disbursements of this action against the named Defendants; and for such other and further relief as to this Court may deem just and proper.

Dated: July 15, 2022  
Buffalo, New York

**ANDREWS, BERNSTEIN, MARANTO & NICOTRA, PLLC**

By: /s/ Amanda N. Blum  
Amanda N. Blum, Esq.  
*Attorneys for Plaintiff*  
Office and Post Office Address  
420 Franklin Street  
Buffalo, New York 14202  
Telephone: (716) 842-2200